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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:

8:11-cv-00485-AG (AJW)

**PLAINTIFFS OPPOSITION TO
DEFENDANT INTELIOUS, INC.'S
MOTION TO DISMISS, DOCKET
NO. 380**

Date of Hearing: October 17, 2011
Time of Hearing: 10:00 a.m.
Location: Courtroom 10D

Plaintiffs, by and through their undersigned counsel, Philip J. Berg, Esquire file the within Response in Opposition; Memorandum of Points and Authorities; and Declarations in Opposition to Defendant, Intelious, Inc.'s ["Intelious"] Motion to Dismiss ["MTD"]. In support hereof, Plaintiffs aver the following:

- Intelious has filed manufactured (newly created) documents with the Declaration of Benjamin Nelson;

- 1 • Intelius has destroyed and spoiled evidence pertaining to this case by
2 deleting accounts; deleting searches on the Plaintiffs; deleting actual
3 reports sold on the Plaintiffs; and creating reports which they falsely
4 claim are the products sold;
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- 6 • Intelius is a Credit Reporting Agency and bound by the Fair Credit
7 Reporting Act [“FCRA”]; California's Consumer Credit Reporting
8 Agency Act [“CCRAA”]; and Investigative Consumer Reporting
9 Agencies Act [“ICRAA”] as outlined on their website in several
10 places and in their submission to the United States Securities and
11 Exchange Division;
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- 13 • Intelius is **not** immune by the Communications Decency Act, 47 U.S.
14 §230, et. Seq. [“CDA”] and the CDA does **not** pertain to the within
15 action;
- 16 • Intelius has deleted the account of Plaintiff Lisa Ostella and deleted
17 the reports that were run on her;
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- 19 • Intelius has failed to address the two (2) letters sent to them by
20 Plaintiff Lisa Liberi regarding the incorrect and wrong information
21 maintained on Plaintiff Lisa Liberi;
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- 23 • Intelius admits in their MTD and Declaration of Benjamin Nelson that
24 more reports were sold to unauthorized individuals than Plaintiffs
25 were aware of;
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- 27 • Plaintiffs have **not** incorporated into their Complaint Intelius’ “Terms
28 of Service” and/or “Frequently Asked Questions”; and

- Intelius fails to uphold their own “Terms of Service” filed with Benjamin Nelson’s Declaration.

1. Defendant Orly Taitz [“Taitz”] as an attorney threatened to take Philip J. Berg, Esquire [“Berg”] down and to do so she stated she was going to destroy his paralegal, Plaintiff Lisa Liberi [“Liberi”] and get rid of her. Taitz’s threat was due to Liberi refusing to assist Taitz in her litigation, which Liberi later learned was a scam. During this same time, Plaintiff Lisa Ostella [“Ostella”] told Taitz to find another web master as Ostella refused to lie and substantiate Taitz’s false statements of “hacking”.

2. This case is **not** about “in-fighting”; it is **not** about President Obama; nor do the Plaintiffs and Defendants have histories of working together, except for Taitz and Ostella for a very short few months.

3. In or about April 2009, Taitz as an Attorney and a Dentist through the Law Offices of Orly Taitz [“L.O.O.T.”], Orly Taitz, Inc., and as President of Defend our Freedoms Foundations, Inc. [“DOFF”] hired or sought Neil Sankey, Todd Sankey, Sankey Investigations, Inc., The Sankey Firm [“Sankey Defendants”] to obtain very private data of Liberi and Ostella; and to conduct illegal background checks; obtain credit and financial data and obtain other very private information of Liberi and Ostella.

1 4. The private data obtained by the Sankey Defendants and Taitz from
2 Intelius was Liberi and Ostella's Social Security numbers; dates of birth; places of
3 birth; father's names; relatives names; siblings names; addresses; unlisted phone
4 numbers; children's names; spouses names, spouses dates of birth; spouses Social
5 Security numbers; financial records; credit reports; medical records; Sealed Court
6 information; and other primary identifying information. In fact, Plaintiff Liberi
7 does **not** own real estate, yet the Reed Defendants and Defendant Intelius supplied
8 Plaintiff Liberi's home address and Liberi and Ostella's unlisted phone numbers.

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11 5. It was later learned that Taitz and the Sankey Defendants utilized
12 LexisNexis, ChoicePoint, Accurint ["the Reed Defendants"] and Defendant
13 Intelius to obtain Plaintiffs Ostella and Liberi's private data.

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16 6. Defendant Yosef Taitz is the "hands-on" CEO of Daylight. Mr. Taitz
17 was involved with the design of Daylight's programs, software and hardware. Mr.
18 Taitz and Daylight's toolkits provide programming interface applications which
19 are built into the design and used with Oracle. The design allows for remote
20 application execution, cross site scripting, remote interface and injection attacks,
21 which are vulnerabilities that Oracle, Daylight and Mr. Taitz were aware of.

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24 7. Defendants Yosef and Orly Taitz used their expertise with the
25 Daylight tools and Oracle flexibilities to access Intelius' databases, where they also
26 obtained Plaintiffs Liberi and Ostella's private data. Mr. Taitz in his Motion to
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1 Dismiss in his individual capacity stated he could **not** be held liable as any
2 damages caused to the Plaintiffs would be the responsibility of Defendant Daylight
3 Chemical Systems, Inc.
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5 8. Intelius claims they **cannot** be held liable since their system was
6 “hacked”. Intelius had a duty to ensure their data maintained on their databases
7 was at all-time maintained secure. Intelius also had a duty to uphold their own
8 promises to the public found on their website that they have security specialists
9 ensuring their IT systems were and are maintained securely.
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12 9. Defendants Taitz; DOFF; L.O.O.T., have admitted in Court filings
13 that they obtained Plaintiffs private data directly from the Sankey Defendants; the
14 Reed Defendants and Defendant Intelius. *See* DOFF’s Motion to Dismiss [“MTD”]
15 filed July 11, 2011, appearing as Docket No. [“DN”] 283; Orly Taitz’s MTD filed
16 July 11, 2011, DN 280; and L.O.O.T.’s MTD filed September 14, 2011, DN 376
17 and their Amended MTD filed September 16, 2011, DN 377. Taitz stated that the
18 Sankey Defendants, Reed Defendants and Defendant Intelius, Inc. are responsible
19 for Plaintiffs damages. Taitz also published all over her website that she obtained
20 the private data from LexisNexis, ChoicePoint and Intelius. *See* DN 190 through
21 190-27 filed May 20, 2011.
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26 10. In Intelius’ MTD they claiming Plaintiffs have failed to state a claim
27 in which relief can be granted. Intelius claims they only supply public records, that
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1 they are **not** bound by the Fair Credit Reporting Laws [“F.C.R.A.”]; the California
2 Credit Reporting Agencies Act [“CCRAA”]; or the California Investigative
3 Consumer Reporting Agencies Act [“ICRAA”], because they are **not** a “Consumer
4 Reporting Agency”, which clearly is **not** the case. In support thereof, they filed a
5 Declaration from Intelius, Inc.’s custodian of Records, Benjamin Nelson.
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8 11. Intelius attempts to use Ruben Nieto and the Spokeo search run on
9 Mr. Nieto’s email address as a comparison to what they sold the Defendants
10 herein. There is **no** comparison. Plaintiffs did **not** seek or obtain Mr. Nieto’s
11 Social Security number, date of birth, home address or other private data. The
12 Spokeo report was far different than the information sold by Intelius on the
13 Plaintiffs.
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16 12. Benjamin Nelson [“Nelson”] attached as Exhibit “3” a TalentWise
17 report on Lisa Liberi. Although, Intelius states all through their MTD that they
18 only provided information on the name Lisa Liberi and **not** that of Plaintiff Liberi,
19 which makes absolutely **no** sense, Nelson’s Exhibit “3” clearly shows it is a report
20 specifically on Plaintiff Lisa Liberi as it contains Liberi’s full Social Security
21 number, address and date of birth.
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24 13. In addition, the accurate background report Liberi pulled on herself,
25 Intelius Background Report No. 30897400 only contains information pertaining to
26 Plaintiff Lisa Liberi and **no** other name of “Lisa Liberi”.
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